

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

TIMOTHY SLOAN, M.D.

Physician's and Surgeon's
Certificate No. G35657

Respondent.

No. D-5162

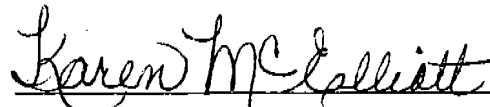
OAH No. N-43271

DECISION

The attached Proposed Decision of the Administrative Law
Judge is hereby adopted by the Medical Board of California as its
Decision in the above-entitled matter.

This Decision shall become effective on August 21, 1995.

IT IS SO ORDERED July 20, 1995.



KAREN MCELLIOTT, Chair
Panel B
Division of Medical Quality

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PROPOSED DECISION

On May 15, 1995, in Stockton, California, Muriel Evers, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Gail Heppell, Deputy Attorney General, represented the complainant.

Hinshaw, Winkler, Draa, Marsh & Still, and Edward A. Hinshaw represented respondent.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The parties stipulated to the following, only for the purposes of this proceeding and any other proceeding before the Medical Board:

A. Respondent Timothy Sloan, M.D., was issued on October 3, 1977, by the Medical Board of California, Physician's and Surgeon's Certificate No. G35657. At all relevant times said certificate was in full force and effect.

B. On April 29, 1993, Accusation No. D-5162 was filed by Dixon Arnett, Executive Officer of the Medical Board of California in his official capacity as such. Said Accusation listed causes for disciplinary action against respondent. Respondent was duly and properly served with Accusation No. D-5162 by certified mail, and respondent filed a timely Notice of Defense requesting a hearing on the charges contained in the Accusation.

C. Respondent admits the following:

1. Between March, 1990 and June 1991, respondent wrote prescriptions for Percocet as follows:

3/12/90	J. Jackson	75
7/08/90	S. Jackson	75
7/15/90	S. Jackson	75
9/18/90	S. Jackson	75
9/29/90	J. Jackson	75
1/19/91	J. Chambers	80
1/29/91	J. Chambers	80
3/12/91	S. Chambers	80
4/08/91	T. Chambers	80
4/23/91	T. Chambers	80
6/05/91	S. Jacobs	80
7/08/91	S. Jacobs	80
7/14/91	S. Jacobs	80
7/22/91	S. Jacobs	80
7/30/91	S. Jacobs	80

2. Respondent wrote the above-listed prescriptions using the names of former patients and/or false names and addresses in violation of Business and Professions Code section 2238 in conjunction with Health and Safety Code section 11173(b).
3. Respondent wrote the above-listed prescriptions and obtained the drugs from these prescriptions for his own purposes in violation of Business and Professions Code section 2238 in conjunction with Health and Safety Code sections 11153(a), 11154 and 11173(a)(1).

4. Patient B.N.--#2385259

- a. On May 22, 1986, 79-year-old patient B.N. was brought to the Emergency Room at Rideout Memorial Hospital. He had been involved in a minor automobile accident and was complaining of severe shortness of breath and abdominal pain. Respondent examined this patient and noted that the patient had chronic atrial fibrillation and was taking Coumadin. Respondent also noted bruising of the abdomen and slight tenderness. Respondent admitted B.N. to be observed in the intensive care unit for 24 hours. Respondent did not order an abdomina tap or CT scan.
- b. The patient continued to have abdominal pain which was treated with analgesics and shortness of breath (dyspnea). On May 23, he had decreased urinary output which was treated with Lasix. The patient had a cardiac arrest on May 25 and died. An autopsy was done which listed the cause of death as "aspiration of stomach contents, due to Hemoperitoneum, due to Lacerated mesentery to the small bowel".
- c. Respondent was negligent in his care and treatment of this patient in that he failed to recognize and promptly treat a serious abdominal injury.

5. Patient A.S.--#2405575

- a. On November 3, 1986, 71-year-old patient A.S. was admitted to Rideout Memorial Hospital by respondent for an aortofemoral bypass. Patient A.S. had been referred by respondent in October, 1986, after complaining of pain in her lower back and lower left leg to her physician. Respondent examined and evaluated the results of an arteriogram and found that she had complete occlusion of the right common iliac and a major stenosis of the left common iliac. Respondent suggested that some of the pain could be relieved by doing and aortofemoral bypass graft. The

patient had a history of myocardial infarction and was taking cardiac as well as hypertension medications. She had three prior abdominal surgeries.

- b. A Swan-Ganz catheter was placed on November 4 to assess her cardiac status, and the surgery took place on November 5, with respondent acting as surgeon. The anesthesiologist evaluated the patient prior to surgery and classified her as ASA 4 because of her chronic pulmonary and cardiac problems. The operation was apparently uneventful and the patient was transferred to the intensive care unit. The patient remained in intensive care until November 8, when she was discharged to the floor. The patient was nauseous and had multiple episodes of vomiting bile-colored material on November 8 through 12. She also complained of pain and weakness. On November 13, the patient had a cardiac arrest and died. An autopsy was performed which listed the cause of death as "shock and septicemia, due to Perforated small bowel, obstructed small bowel with infarction".
- c. Respondent was negligent in his care and treatment of this patient in that he failed to provide proper post-operative care. Respondent failed to recognize, assess, and promptly treat post-operative complications.

6. Patient F.W.--#016688

- a. On October 29, 85-year-old patient F.W. was admitted to Rideout Memorial Hospital by Dr. Berry for anemia. Upon admission his hemoglobin was 6. The patient had an abdominal aortic aneurysm (7 cm), a history of cigarette smoking and a prior myocardial infarction. He was found to have a distal sigmoid lesion. Respondent was asked to consult and felt that the patient needed to have surgical resection of his abdominal aortic aneurysm, and scheduled the patient for surgery.

- b. Surgery was scheduled for November 7. The night prior to surgery, the patient suffered a respiratory arrest and required intubation. Pursuant to respondent's orders, the patient was taken to the operating room where respondent performed an emergency laparotomy. No rupture of the aneurysm was found. Respondent identified colon carcinoma. The patient then underwent resection of the abdominal aortic aneurysm and exteriorization of the sigmoid lesion. (The lesion was nonobstructing.) After surgery, the patient was taken to intensive care. The patient was subsequently discharged to a skilled nursing facility on December 4, 1987.
 - c. Respondent was negligent in his treatment of this patient in that he subjected this patient to emergency surgery in the absence of medical indications for performing such surgery (i.e., signs of acute bleeding). He was further negligent in that after performing the laparotomy, he elected to repair the aneurysm even though there was no rupture.
7. The acts set forth above in paragraphs C(4) through C(6), or any combination thereof, constitute repeated negligent acts in violation of Business and Professions Code section 2234(c).

II

Respondent is practicing emergency medicine at St. Joseph's Hospital in Stockton. In addition, he assists in thoracic surgery. There was no evidence of any quality of care issue since 1987.

Respondent wrote false prescriptions in 1990-91 to provide his wife, a nurse, with the drugs she needed for her addiction. Initially he thought he could help her reduce and eventually stop using drugs. He came to realize that did not work and helped get her into a diversion program with her nursing

licensing board. Respondent, his wife and their family participated in counseling to try to solve some of the problems which contributed to his wife's addiction. The counseling has improved their relationships.

In addition to his employment in Stockton, respondent has provided volunteer medical services in Bosnia-Herzegovina and Nicaragua.

Respondent wishes to continue in emergency medicine and thoracic surgery. From 1981-83, respondent was a resident in cardiac and thoracic surgery at the University of Texas.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license for violation of Business and Professions Code section 2238, in conjunction with Health and Safety Code section 11173(b) was established by Finding I(C)(1) and (2).

II

Cause for discipline of respondent's license for violation of Business and Professions Code section 2238 in conjunction with Health and Safety Code sections 11153(a), 11154 and 11173(a)(1) was established by Finding I(C)(1) and (3).

III

Cause for discipline of respondent's license for violation of Business and Professions Code section 2234(c) was established by Findings I(C)(4)-(6).

ORDER

The certificate issued to respondent Timothy Sloan, M.D. is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years on the following terms and conditions:

- A. Within 15 days after the effective date of this Decision, the respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this Decision

on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended or where respondent is employed to practice medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended.

- B. Respondent shall not prescribe, administer, dispense, or order any Schedule II controlled substances as defined in the California Uniform Controlled Substances Act, except for patients in a hospital setting.
- C. Within 90 days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Division for its prior approval an educational program or course to be designated by the Division, which shall not be less than 40 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for relicensure. Following the completion of each course, the Division or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of continuing medical education of which 40 hours were in satisfaction of this condition and were approved in advance by the Division.
- D. Within 60 days of the effective date of this Decision, respondent shall take and pass an oral or written examination in emergency medicine, administered by the Division or its designee. If respondent fails this examination, respondent shall be allowed to take and pass a second examination, which may consist of a written as well as an oral examination. The waiting period between the first and second examinations shall be at three months. If respondent fails to pass the first and second examinations, respondent may take a third and final examination after waiting a period of one year. Failure to pass the oral clinical examination within 18 months after the effective date of this Decision shall constitute a violation of probation. The respondent shall pay the costs of all examinations.
- E. Within 30 days of the effective date of this Decision, respondent shall submit to the Division for its prior approval a plan of practice in which respondent's practice shall be monitored by

another physician in respondent's field of practice, who shall provide periodic reports to the Division.

If the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the Division.

- F. Respondent shall not act as a primary surgeon unless enrolled in a Board-approved training program or until Board-certified in surgery or a surgical specialty.
- G. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of California.
- H. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.
- I. Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record.


Respondent shall also immediately inform the Division, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

- J. Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.
- K. The period of probation shall not run during the time respondent is: (1) practicing medicine outside the jurisdiction of California, or (2) participating in the practice of medicine less than 64 hours per month while residing in California. For the purposes of this Order, all time spent in an intensive training program approved by the Division or its designee shall be

considered as time in practice. If, during probation, respondent practices medicine out of the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's practice is out of state, and the date of return, if any.

- L. Upon successful completion of probation, respondent's certificate will be fully restored.
- M. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during the period of probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
- N. Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Dated: June 7, 1995


MURIEL EVENS
Administrative Law Judge
Office of Administrative Hearings